

REMARKS

Claims 1-15 remain in this application. Claims 1, 5, 8, 10-12, 14 and 15, have been amended.

Claims 1, 5, 8, 10-12, 14 and 15 have been amended for the following reasons: to overcome the examiners objections in claim 8 to replace the term "speed not quite the speed" with --different than that -- and in the remainder of the claims replacing the term "motionless" with-- non-rotating--. Claims 9 and 14 were amended to replace the term "onto" with --on--and claim 15 "having" was replaced with --has--.

Applicant acknowledges that the information disclosure statement was lacking in the filing and the references cited have not been considered by the examiner.

The drawings were objected to under 37 CFR 1.83(a) as not showing every feature of the invention. The claims have been amended to clarify the description of the cap.

The drawings were objected to under 37 CFR 1.84(p) (5) for not including the reference sign 25. A replacement sheet has been included herewith for FIGURES 4 and 11 with an annotated sheet showing the changes made.

The specification was objected to as being informal with the term "motionless" now replaced with the term -- non-rotating-- on pages 1-4, 6 and the abstract.

The title was objected to as not being descriptive. As amended the title has been changed as suggested by the examiner.

Reconsideration of this application is requested. Claims 1-15 were rejected under 35 U.S.C.112 second paragraph, as being indefinite for failing to particularly pointing out and distinctly claim the subject matter which applicant regards as the invention.

As amended claims 1, 14 and 15 now clarify the automotive wheel element as being introduced in the preamble and claims 6 and 8 follow the clarification of the base claim. Claim 14 now clarifies the cap recitation and claim 15 the wheel and cap being introduced in the preamble.

Claims 1 and 14-15 were rejected under 35 U.S.C.112 second paragraph, as being indefinite for failing to particularly pointing out and distinctly claim the subject matter which applicant regards as the invention. As amended the claims now clarify the description of the “non-rotating cap”

Claims 14 and 15 were rejected under 35 U.S.C.103(a) as being unpatentable over Yuan in U.S. Patent No. 6,848,751 in view of Hettinger in U.S. Patent No. 3,219,391. This rejection is respectfully traversed.

Relative to claim 14 Yuan discloses and claims “*a housing secured in a recess formed in a central portion of a wheel disc of a car wheel*” (claim 1 first paragraph), where applicant differs in structure and function by utilizing an adapter plate that is mounted directly onto the automotive wheel. The wheel disc of Yuan while ultimately connecting to the wheel is certainly different in structure and points of attachment whereas in order to provide dual function of the applicant, the adapter plate permits the capability of mounting the spinner which is lacking in Yuan’s invention. Yuan utilizes a housing formed in a cylindrical shape combined with a transparent cover for encasing a rotating disc along with the decorative feature within an interior that has been formed within the confines of the housing and the transparent cover. Applicant has no such limitations and therefore defines over the teachings of Yuan.

The examiner contended that it would have been obvious to one of ordinary skill in the art at the time of the invention to provide blades on the spinner of Yuan as a substitution of equivalent decorative indicia for the purpose of changing the aesthetic appearance of a vehicle wheel. Applicant submits that Yuan would first have no reason

to incorporate Hettinger's disc cover as there can be no prima facie obviousness merely because the prior art can be modified to the claimed form without a suggestion of its desirability and Yuan gave no inkling of its appeal.

A close look at Hettinger's disc cover is a far cry from applicant's **spoked or specifically bladed** spinner as Hettinger's disc cover is illustrated as a flat disc with streamlined air scoops attached on an outside surface. The examiner suggested the "*(blades being indicated at 36)*" were actually *blades* instead of scoops as disclosed by Hettinger however if there was no backing or a flat disc behind they would not operate as scoops to catch the air and function depending upon air flow rather than revolutions of the wheel as intended. Applicant submits that Hettinger does not teach or claim a spoked or bladed spinner at all only a disc cover with scoops attached thereunto.

Furthermore applicant claims the spinner shaft retained within a bearing and a bladed spinner attached to the shaft and a second bearing upon which the cap is attached. Yuan has no way using his invention as taught and claimed therefore to add a separate bladed spinner, such as the applicant's, located in between his rotating disc and his two bearings would not be feasible. Yuan's rotating disc is enclosed within the housing disallowing the interjection of a bladed spinner between his first bearing and his disc furthermore he could not use his transparent cover and the change would be so broad as to completely remove his novelty as disclosed.

Claim 15 includes all of the same elements of claim 14 with the exception of the adapter plate therefore the same argument is presented as outlined above as there is sufficient basic differences in the prior art and the claim at issue.

The ordinary level of skill to combine the invention of Yuan in U.S. Patent No. 6,848,751 with the teachings of Hettinger in U.S. Patent No. 3,219,391 would be in question as there would be such a radical change required that Yuan would have to give up much of the uniqueness of his invention and in reality start over again which is not necessarily within his skill level.


Accordingly the subject matter of claims 14 and 15 are not rendered obvious by Yuan in U.S. Patent No. 6,848,751 with the teachings of Hettinger in U.S. Patent No. 3,219,391

Accordingly, the rejections under 35 U.S.C. 112 and 103 are deemed overcome by applicant's remarks.

Withdrawal of the rejections is respectfully requested and allowance of the instant application is solicited.

No additional fee is deemed necessary at this time.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "A. O. Cota", written in a cursive style.

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FED INK
CHANGES
4-30-05

2/4

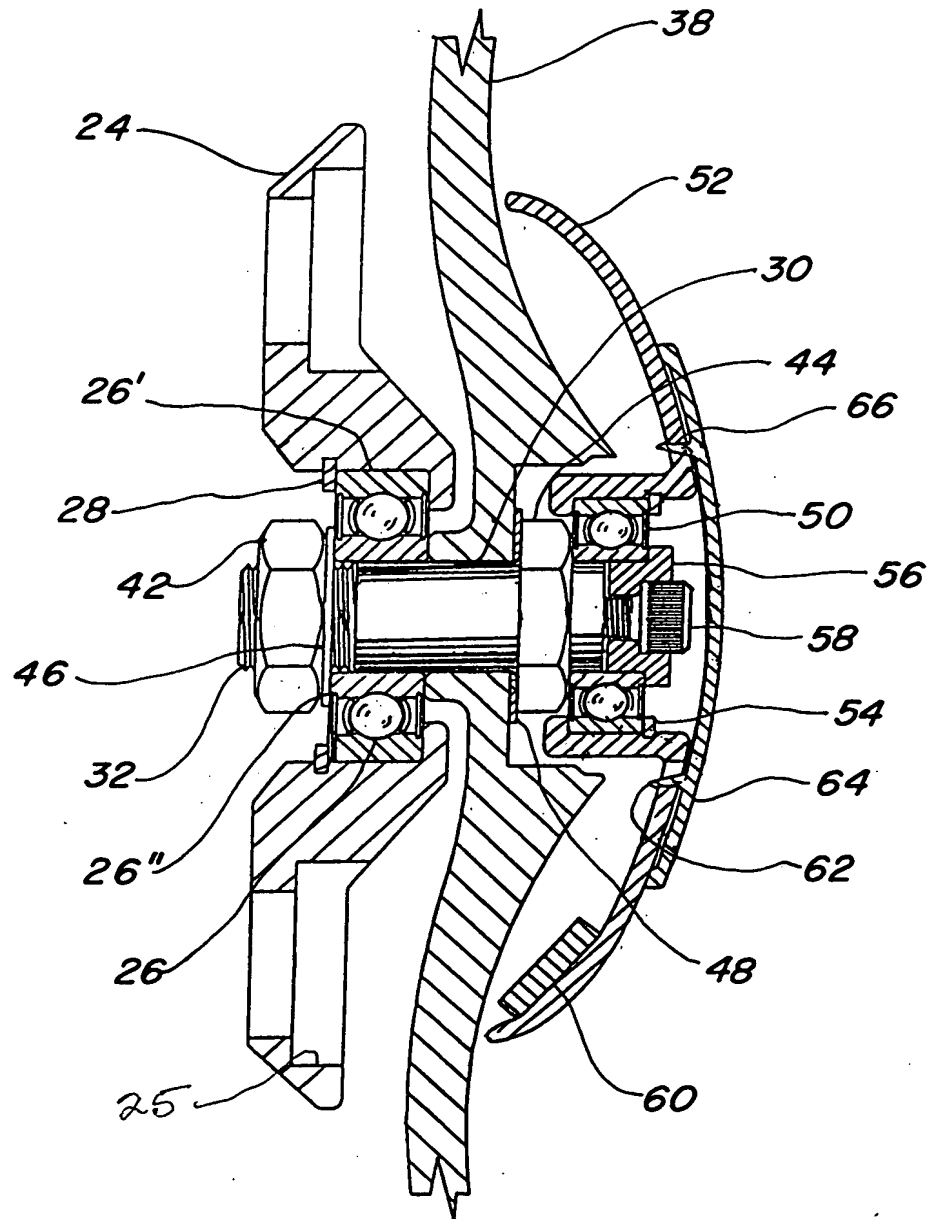


FIG. 4

RED INK
CHANGES
4-30-05

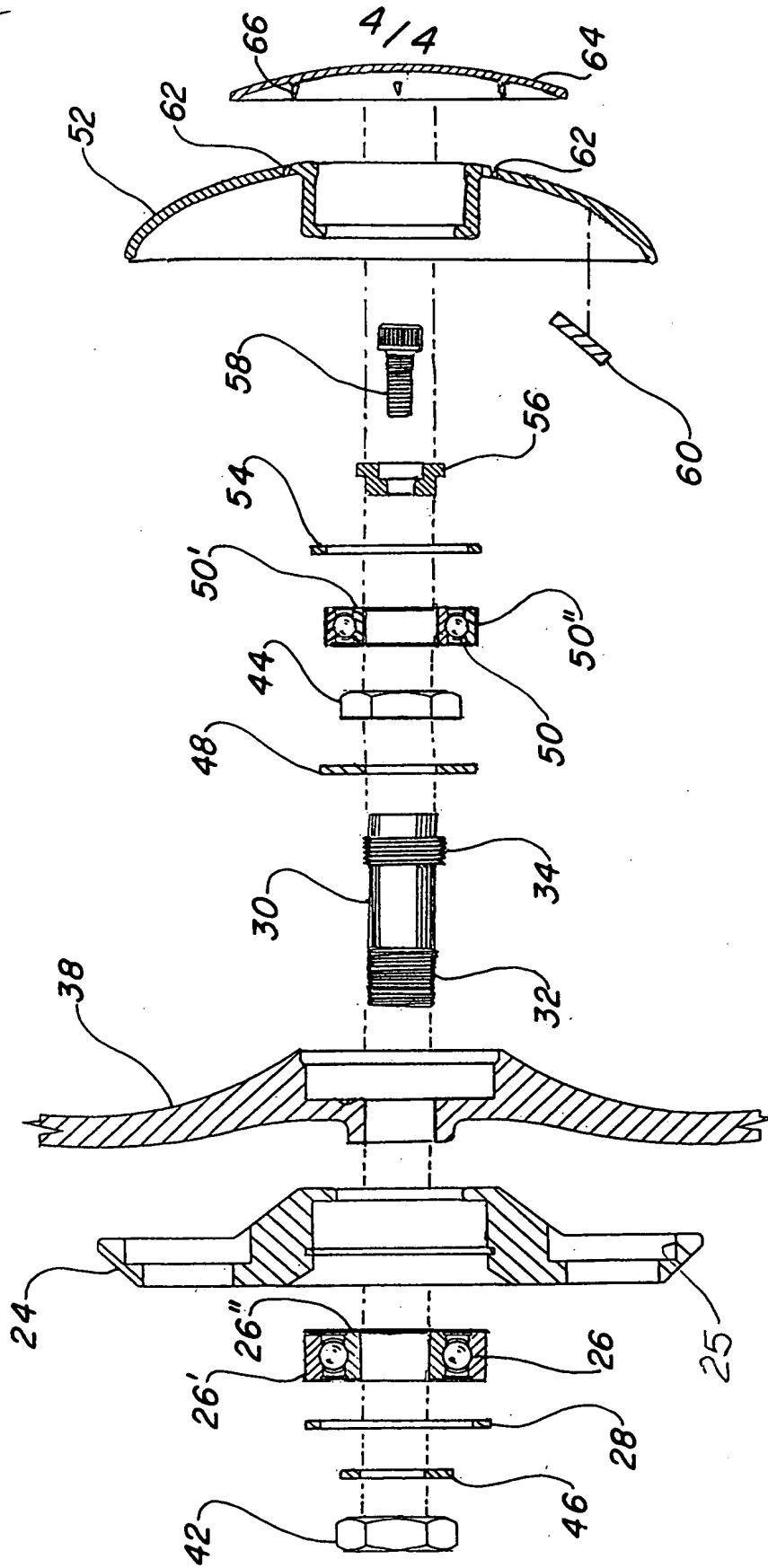


FIG. 11